QUID NOVI

McGill University, Faculty of Law
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"WHEN I SEE THE PRICE THAT YOU PAY
I DON'T WANNA GROW UP
I DON'T EVER WANNA BE THAT WAY
I DON'T WANNA GROW UP

SEEMS LIKE FOLKS TURN INTO THINGS
THAT THEY'D NEVER WANT
THE ONLY THING TO LIVE FOR
IS TODAY..."

-"I DON'T WANNA GROW UP" T. WAITS / K. BRENNAN

QUID NOVI

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IN THIS ISSUE...

EDITORIAL

by Caroline Briand (Law IV), Co-Editor in Chief

Mental Health and Well-Being at the Faculty – Take Two !

L'année dernière, le Quid a publié une édition spéciale sur le bien-être et la santé mentale à la Faculté. Plusieurs étudiants en avaient profité pour témoigner de leur situation personnelle, pour dénoncer certaines situations, ou tout simplement pour débattre de la question.

Près d'un an a passé, et le moment est par conséquent arrivé pour se poser la question : les choses ont-elles vraiment changé ? Sommes-nous toujours les victimes chroniques d'un stress envahissant ? Notre faculté est-elle un milieu propice au savoir, à l'apprentissage et à la croissance, ou s'agit-il du siège d'une compétition féroce et instutionnalisée ?

On Tuesday, November 21st, the Quid will publish its second (annual – who knows ?) special issue on mental health and well-being at the Faculty. We therefore encourage students, clubs, faculty and staff members to submit their thoughts, questions, testimonies, suggestions and wise pieces of advice on these issues.

The deadline for this special issue is on Thursday, Nov. 17th at 5:00 pm.

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Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse:
http://www.law.mcgill.ca/quid/epolicy/html.

Contributions should preferably be submitted as a .doc attachment.

A Limited Response to Margaret Somerville's Response

by Tara Bognar

In your article, you asserted that there are certain rights "that marriage, when limited to opposite-sex people, *establishes* for children, in general, with respect to their natural parents." (My emphasis).

In this response, I will argue rather that the symbolic ideal of heterosexual marriage often actually *undermines* the rights of children.

The social/legal institution of heterosexual marriage creates a framework for family relationships that interrupts the parent-child relationship and the obligations which might flow from it by interposing a paradigmatic ideal. That very ideal often destroys rather than establishes the three rights you postulate as fundamental, for children born both inside and outside marriage.

First, the right of a child to "know the identity of her natural parents": In a marriage, it is assumed both legally and socially that any children birthed by the wife are the offspring of the husband. How often is that true? Studies show that paternity is falsely attributed at least 2% and up to 10% or more of the time. The mother may not even know the true identity of the father. In many if not all of these cases, the true parentage of the child will be suppressed *for the sake* of the marriage, in deferral to the symbolic ideal of heterosexual marriage.

Second, the right to "both a mother and a father, preferably their own biological parents": The institution of marriage has often served to sever parents from children because of its establishment of the categories of legitimate and illegitimate children. From a traditional point of view, only children recognized as `legitimate' had the right to be acknowledged by their fathers and the entitlement to be supported by and to inherit from them. Even for legitimate children, stereotyped parental roles often limit the right a child has to her parents. For example it used to be the case, and still is in many cultures, that in the case of divorce custody of a weaned child is automatically awarded to fathers to the complete exclusion of a mother from her child's life. Even within an intact traditional marriage, fathers are not assumed to share the responsibility of childcare, and in traditional a polygamous marriage, children are often not expected to live with both parents.

Third, the right of a child to "come into being with genetic origins that have not been tampered with": Since genetic tampering techniques are fairly new, it is hard to make generalizations about who is likely to use them. Nevertheless, until now, it seems that married couples have been the primary users of `tampering' techniques, often with the help of government and insurance subsidies. In fact, the `genetic orphan' whose plight you discuss is likely to be a child of a heterosexually married couples who used sperm donation and then colluded, again in *deferral to the symbolic ideal* of heterosexual marriage, in presenting the mother's husband as the child's father.

In what sense, then, has marriage established rights for children? It seems to me that the institution of marriage has not established rights but rather privileged certain children (the legitimate ones) *by* denying rights to children born outside of marriage. For example, by allowing men to deny paternity/acknowledgement of children born on the wrong side of the blanket, or by stigmatizing bastards and single mothers so that unwed women are pressured to give up their children for adoption.

Ironically, *because* the rights you call for *cannot* reasonably be established through the legislation of marriage (how? mandatory paternity testing? legislation of child care duties? restrictions on the living arrangements of married couples?), the special relationship between marriage and children you desire can *only* be secured at expense of children born outside of marriage. The UN definition of marriage you bring, where marriage grants the right to found a family, *creates* a category of "illegal children" - a category that should chill anybody who cares about the lives of children.

I worry that your use of children's rights to justify straight marriage actually undermines the rights of all children by tying the rights of a child to the legal/cultural status ▸

of her parents' relationship. If children's rights are important to us, we must discuss and establish them in their own right and not use them as a game chip in the social and legal allocation of marriage. ■

ERRATUM

In last week's issue, the Quid failed to properly credit Professor Margaret Somerville for her response to Peter Konstantinov's article. We apologize for the confusion and inconvenience.

COFFEEHOUSE REFERENDUM

By Hilary Johnson (Law II)

Last week, the "Yes" committee won the Coffeehouse Referendum with 55.3% of the votes in their favour.

The LSA would like to thank everyone who took the time to vote. The LSA does not see any point on lingering on our defeat by the Yes Committee. We are here to represent students, and you have made your voice heard.

The LSA would like to avoid "dumping" the issue on the 2007/2008 LSA. We would therefore like to keep the discussion open in terms of ideas to improve coffeehouse for this year and years to come. As VP Internal, I'd like to satisfy the student body to the best of my ability, under the circumstances. Innovative ideas and criticisms are welcome.

Should you have ideas or comments, please e-mail me at vp-internal.lsa@mcgill.ca. If you prefer to remain anonymous, feel free communicate your constructive criticism from a random e-mail address (e.g.: notyourrealname@yahoo.com) with a subject line such as "Coffeehouse".

Due to the attention that the referendum and debate around coffeehouse has received, other significant parts of the Executive's mandate may have been overlooked, so while we do not wish to fully close the discussion on coffeehouse, we invite you to redirect your attention to other important activities going on in the Faculty. I look forward to your participation in the Faculty life for the remainder of the academic year. ■

Les aventures du capitaine Corporate America 41

Instinct de conservation (par la saisie si nécessaire)

Par: Laurence Bich-Carriere (Law III)

Why Is This Nite Different Than All Other Nites?

by Christine Beltempo and Matt Osten - co-producers, Skit Nite (LAW II)

Skit Nite has been a tradition at the faculty of law since 1857 when Old Chancellor Day (then New Chancellor Day) created the event to promote creativity and smug in-jokes within the legal community. From these humble beginnings, Skit Nite has blossomed into an entertainment juggernaut which annually raises thousands of dollars for local charities. Students consistently vote Skit Nite as their favourite day of the scholastic year (followed closely by Club Sandwich Friday at Pino's).

But all is not well in the land of Skit Nite. Last year's show was dominated by videos and musical numbers with live skits accounting for less than a quarter of the total acts. Our goal for the 2007 show is to put the `skit' back in Skit Nite. We aim to mount a production which focuses on sharply written, live sketches that directly engage the audience. We want the show to stand as a cohesive series of hilarious performances, absurd moments, and poorly-fashioned wigs.

Does this mean that you can't produce a video or play music for Skit Nite? Of course not. We will need every audio/visual trick in the book to make this show a success. That being said, there will be a focus on live elements and preference will be given to concepts which excite multiple senses and sensibilities.

We are also happy to announce that the umbrella of Skit Nite has expanded to include a new event called Music Nite. Music Nite will take place at the end of January and feature a collection of the Faculty's finest artists rocking, folking, and funking out for your listening pleasure. The money raised will go to charity.

Please start thinking of ideas now as submission deadlines for Skit Nite will be earlier this year. Also, please consider lending your vocal/instrumental talents to Music Nite. The success of these events depends on you. Help us create shows that you will be proud to be a part of and excited to watch.

Now, everyone go break a leg!

Quick Recap:

-Skit Nite = hallowed tradition + fundraiser + hilarity

-Focus this year on live elements

-Less talent show-y, more awesome extravaganza-y

-New this year: Music Nite

-Please participate in Skit Nite and Music Nite

-Please support those participating in Skit Nite and Music Nite

Notes:

-In addition to writers and actors, we need the following roles to be filled:

-Web Designer

-Stage Manager

-Tech Director

-Art Director

-Program Designer

-If you'd like to know more about Skit Nite please join us for an information session on November 16 at 4:15p.m. (NCDH 200). ■

IN THE NEXT QUID - A SPECIAL ISSUE ON MENTAL HEALTH AND WELL-BEING AT THE FACULTY

One year after our first special issue on the topic, where are we now?
Le Quid vous invite à vous exprimer sur la question dans son édition du 21 novembre 2006. Écrivez-nous si vous avez un témoignage, des critiques, des suggestions ou simplement des conseils à offrir.

La date de tombée est le jeudi 16 novembre à 17h00.

HIGH SCHOOL OUTREACH: A NEW PROGRAM AT MCGILL UNIVERSITY

BY ANDREW BITEEN (LAW II, HIGH SCHOOL OUTREACH COORDINATOR)

The diversity and international character of McGill's student body is one of the University's strengths and offers students an educational environment that is unique. Promoting understanding and respect for personal differences of all kinds, as well as identifying ways in which students can derive maximum benefit from this unique environment, are essential to the goal of providing students with the best possible educational experience.

- Principal's Task Force on Student Life

No disrespect intended, but a trip to any one of the Tim Horton's around Montreal offers more socio-economic diversity than do most classrooms at McGill, this faculty included. Inadequate representation endures despite our low tuition, perpetuating the challenges of employment and – in terms of this faculty – access to justice. For many people in Montreal, the only interaction with the legal world is negative. As one high school guidance counsellor put it, "for most of my students, all they know about the law – aside from Hollywood – is that the police harass them at the metro station and the landlord tries to evict their mother for missing rent." Against this backdrop, the Admissions Office has launched a pilot High School Outreach Program. The goal of the program is not the recruitment of "star" high school students to our faculty, but to expose all types of students to a world that might otherwise be alien to them.

Another objective of the program is to encourage law students to engage with their own legal education in a new way: through teaching. This semester, teams of law students are visiting two Montreal high schools in underprivileged neighbourhoods, implementing a curriculum addressing the negative perceptions many students there have of both the law and higher education. Building off a similar, if more modest, outreach initiative of the BLSA, the curriculum aims to open students' minds to the world of legal concepts, legal resources, and legal careers: everything from a police officer to a Régisseur to a Supreme Court justice. Activities range from comparing expression in the lyrics of Britney Spears, Eminem, and Mozart, (only the last elicited one student's exclamation: "damn, what a pimp") to a legal analysis of an infamous police situation at Westmount High. Next semester, the students from both high schools will be invited to our faculty for a full day visit. For many of them, it will be their first time on a post-secondary campus. Hopefully, it will help them envision their next such visit. Like the classroom activities, the visit to McGill aims at normalizing environments that many of us have been fortunate enough to take for granted all our lives.

Of course, it is unrealistic to expect two or three visits to remedy systemic problems of socio-economic representation. Both academic research and my personal experience working with adolescents have taught me that without constant reinforcement, teenagers quickly dismiss such gestures as irrelevant at best and insincere at worst. However, continual support, even marginal, can make the difference. For this reason, a faculty Mentorship Program will serve as the backbone of the entire Outreach Program. While the faculty can provide resources, only ongoing trust and continuous reaffirmation enable the students to benefit from these. The Mentorship Program will enable McGill students to link with high school students in order to provide them with connections to two worlds – legal and educational – that are often alien to them. It will also enable both partners to share their gifts of opportunity, education, and experience.

Planning and executing both the visit to McGill and the mentorship program will demand the involvement of many law students. The first meeting for interested participants will take place in NCDH Room 204 on Wednesday, November 15, at 12:30. Commitments can vary from designing t-shirts to preparing a CEGEP survival guide; from coordinating the logistics of a career panel to conceiving activities between mentors and students. Furthermore, high school outreach does not belong to any one person or one office. There is unlimited potential to expand our faculty's outreach initiatives both in depth and breadth, in both French and English. One

French language high school was initially involved, but has since dropped out. Undeniably, despite ours being a bilingual faculty, McGill is even more exotic to underprivileged French communities, underscoring the need for outreach there.

On my first day of law school, a professor stressed to the class that the tuition we pay is a miniscule part of the cost of a legal education. The rest comes from government and private sources, each of whom has decided it is in their best interests to fund these pursuits. In return, this professor stressed, we as law students have the responsibility of using our education to repay their gifts. How better to make use of the wealth of resources offered to us than by sharing with those who otherwise risk never benefiting from them. ■

INNOCENCE MCGILL: THREE YEARS ON

By Hugh Sandler (A founding member) and Simon Seida (Director)

History of the Innocence Project

The first Innocence Project was established at the Benjamin N. Cardozo School of Law in 1992. Operating as a non-profit legal clinic, the project focuses on using post-conviction DNA testing of evidence in order to prove the innocence of convicted inmates.

Since its inception, the Innocence Project has, through the effort of students and external legal counsel, successfully exonerated 187 convicted individuals. Over the years, many Faculties of Law have followed their example and set up projects of their own. This list includes a Project at Osgoode Hall Law School at York University. At the same time, other Canadian universities have followed this example by setting up either permanent projects or groups of students who help lawyers on a case-by-case basis.

Innocence McGill

Inspired by the Innocence Project, as well as other similar projects, nine Faculty of Law students at McGill University pursued the creation of Innocence McGill in 2004. After gaining approval from the Dean of the Law Faculty, the Barreau du Québec, and assembling an Advisory Board of prominent criminal lawyers and professors in Montreal, the project was officially launched in February 2005. Since its launch, Innocence McGill has received numerous applications from incarcerated individuals throughout the province of Quebec.

Each file is assigned a team of volunteers who review every aspect of the application (*i.e.* trial transcript review, meeting with the applicant's previous counsel, reviewing existing evidence, as well as other relevant aspects of the case history). These efforts are pursued in an attempt to compare the merits and appropriateness of the application with the mandate of Innocence McGill. Upon the completion of each applicant's review the team of volunteers presents the case to the entire Innocence McGill constituency, including the Advisory Board. This presentation includes an official recommendation to accept (or reject) the application and pursue a 696.1 claim of wrongful conviction to the Federal Minister of Justice as provided by the Criminal Code of Canada.

Institutionalization

In addition to working on an ever-increasing quantity of files and expanding the number of volunteers, Innocence McGill is always in the process of furthering its integration within the Quebec legal community. Such examples of this integration include interacting with many Quebec criminal defense lawyers; networking with institutions such as UQAM's Innocence Project; attending conferences on relevant criminal and evidentiary issues; making government applications; such as Freedom of Information requests, Coroner's Reports, *etc.*. These activities are a fundamental component of the Project. Such integration allows Innocence McGill to move quickly attend to the necessary investigative exigencies of each application it receives. For instance, getting access to trial evidence, particularly for the purposes of DNA investigation, as well as accessing files from an applicant's previous counsel, are crucial components to the preliminary investigative work undertaken.

Recruitment

Innocence McGill has attracted a wide variety of student members. Some, like last year's gold ▸

medalist Christine Mainville, choose to pursue a career in criminal defense after law school, some move onto work for international NGOs, while still others choose to practice private law both in Canada and the United States. Because of our desire to maintain a team of 15 to 20 dedicated students, Innocence McGill recruits new members each January through a process involving casual interviews with senior members. New members have always been impressed at how rapidly they are assigned their first case and the latitude they are given in the management of that file. If you are a self-starter, who enjoys applying both your legal and non-legal skills in a practical and meaningful way and are interested in being a member of Innocence McGill we look forward to your application. Innocence McGill will be hosting a coffeehouse on January 11, 2007, where you can meet our members, and formal applications will be due on Monday January 15, 2007. Keep an eye on the Quid and Notice Board for application details. For general information about Innocence McGill please visit: http://www.mcgill.ca/innocence

2006 Progress

In March of 2006, Innocence McGill hosted its second annual conference. The speakers at this media covered event were Stephen Bindman, Special Advisor on wrongful convictions for the Federal Department of Justice; Former Justice Bernard Grenier, now Special Advisor to the Federal Minister of Justice; and Michel Dumont, who was wrongfully convicted of raping a woman in 1991 only to be exonerated in 2001.

This Fall, Innocence McGill began to forge an alliance with the Osgoode Hall Project and the UQAM Project in order to share relevant expertise. This included long discussions on substantive law issues with the UQAM Director and direct collaboration on a file with Osgoode. Critical legal issues we are exploring include: if and how the disclosure requirements of *Stinchcombe*, [1995] 1 S.C.R. 754 apply after a conviction and appeal and to what extent the rule on the fairness of a trial established by *R v. Taillefer*; *R v. Duguay*, [2003] 3 S.C.R. 307 binds the Minister when he reviews a possible wrongful conviction. On the file side, Innocence McGill is currently actively investigating claims from seven inmates who all maintain their innocence, all of them on a murder conviction. Although, Innocence McGill has not yet submitted an application to the Minister for review, it currently speaks on behalf of an inmate who has previously filed an application and who is currently not represented by counsel. However, it must be noted that in compliance with the Bar Act, Innocence McGill makes clear to all its applicants that it does not offer any legal advice, but rather helps them obtain all the necessary information to file an application to the Minister. ■

Law Limerick IX

by Francie Gow (Law III)

My pen I should never constrain
Just 'cause people upstairs might complain

But if I break my promise
Not to rhyme about Thomas
Will he e'er stamp my papers again?

Legal Sonnet I (in response to Law Limerick VIII)

by Stephanie Jones (Law II)

In Constitutional, I read faithfully,
I puzzled over the decision in *Law*.
Yet I learned more about equality
By closing th' red book and list'ning to Hogg.
In PIL, I read pages on genocide –
In class and notes, they got a brief summation.
What I know, I learned from some who survived
To speak to us – and yes, I skipped Foundations.
Of course we still need profs, readings, and class –
However, perhaps our legal education
Should teach us to strive not only for balance,
But teach us to strive, too, for integration.
Let us skip lectures for a speaker or two –
We'll still learn, which is what we came to do.

James Joyce and the Law

By Alex Herman (Law II)

Ulysses often gets a bad wrap. The eight-hundred page book is seen as pretentious, weighty and unreadable. Though often hailed as the twentieth century's greatest work of literature, those who claim to have read it are met with shrugs and rolled eyes. Even law students - people who, on occasion, let terms like "*caveat emptor*" and "*sine qua non*" seep into their daily vocabulary - criticize the work for being too highbrow.

The truth is, James Joyce's 1922 novel is a masterpiece not because it is easy, but because it is hard. Certainly, a writer who uses thirty pages to describe the events that take place between exactly 2:55 and 3:15 of a single day is not meant for everyone's bedside table. It is extremely dense. Often narrative point of view changes within a paragraph, sometimes within a single sentence. And stylistically, it's all over the map - literally. But, that being said, *Ulysses* is the perfect read for any serious law student.

Why? Well, first of all it's long. Someone who has waded through the *Reference Re Secession of Quebec* or Peter Hogg's *Canadian Constitutional Law* should be well-equipped to tackle the eighteen highly-structured chapters of Irish prose. Joyce, though he spent his entire adult life recovering from the Catholicism of his youth, maintained a systemic approach to writing that he inherited from his Jesuit education. He produced spreadsheets and maps to show the reader exact details of what was happening at any specific moment in the story - thematically, symbolically, geographically and even anatomically. His attention to detail is unmatched

Joyce attempted to fit the quotidian events of the real world into literature. *Ulysses* is set in Dublin in 1904 on June 16 to be exact, now known the world over as "Bloomsday". The entire action takes place over a twenty-four-hour period in the lives of three average Dubliners: Stephen Dedalus, Leopold Bloom and his wife, Molly. The narrative follows Stephen as he goes to work, Leopold while he cooks his breakfast and, in its famous finale, Molly as she lies in bed about to fall asleep - this last episode requiring an impressive 24,000 words.

It is his committed interest in the everyday lives of human beings that makes Joyce so appealing. Are the best judges in the common law not similarly championed? What would be the significance of a woman finding a snail in her beer or an impromptu drug bust if these events weren't examined and re-examined in excruciating detail? They become apotheosized, larger in law than in real life. They become *Donoghue v. Stevenson* and *R. v. Collins*. Law in its essence applies principles and rules to the various commonplace facts of everyday life. It takes an event and fits it into an entire history, giving it context and meaning. Joyce did the same thing; though not with law: he chose to place the everyday into the matrix of literature.

Joyce was aware of what he was doing. He knew seven languages, many of which appear, untranslated, in his books. He had supposedly read every significant work in the canon of western literature. He wasn't ashamed of what he knew and it showed in *Ulysses*. Chapter fourteen recounts the birth of a baby at the National Maternity Hospital in Dublin in a style that imitates the entire history of English prose: it begins like a Norse saga, then the middle ages, then Shakespeare, finally ending with high Victorian verbosity. The stylistic acrobatics reflect Joyce's sensitivity - some would say obsession - with fitting into the overall arc of literature. He might have even succeeded: *Ulysses*, like no other work, incorporates everything that came before it and adequately predicts everything that would come afterwards.

Are the beloved common law judges no different? Take a look at *Donoghue* once more. Here we have five judgments, all written in different styles, all using different logic, all interpreting the case law in different ways. The experience of reading Lord Atkin's neighbour principle next to Lord Buckmaster's vigorous conservatism is truly Joycean. Do the members of the House of Lords not excavate, examine and recreate the past every time a holding is given? Are the multiplicity of voices, the shifting of perspective, the overt awareness of tradition not integral to the ▸

common law? *Ulysses* is then just another case, divided into eighteen judgments, each one entirely unique. Several are stream of consciousness, one is told through newspaper headlines, one is written like a symphony, another is presented in question and answer form. Through the kaleidoscope, we learn to see the modern world more clearly: electric, frantic and disjointed.

Often the argument is made that *Ulysses* requires so much background knowledge - so much baggage - that it is not worth all the work. Each episode is loosely based on Homer's *Odyssey*, so an understanding of the Greek work is a minimum prereq. There are substantial references to *Hamlet*, Dante and Irish history. Sure, it's not *Confessions of a Shopoholic*, but great literature is not meant to be read between subway stops or on a beach in Cancun. It is a challenge - but in that challenge comes a great reward. And, of all people, shouldn't law students be up for a challenge?

It would be impossible to pick up *Ulysses* and start reading *ex nihilo* in the same way that one could never understand *Neilson v. Kamloops* without first reading *Donoghue* and *Anns*. But if we work at it, the rewards will come. Then we'll finally be able to welcome Joyce where he rightfully belongs: as an honorary law student, at home in the common law, the civil law or any system of any land. The task will be great; the task will be continual, but it will be worth it. As Joyce's great biographer Richard Ellmann once wrote: "We are still learning to be James Joyce's contemporaries, to understand our interpreter." ■

A Response to Alex Herman Re: Monarchy

By A.Mason

"Tradition may be defined as an extension of the franchise. Tradition means giving votes to the most obscure of all classes, our ancestors. It is the democracy of the dead."
G. K. Chesterton

There is a pithy quote to serve any cause!

Alex Herman took the monarchy and the unwillingness of students to be rude to a guest speaker to task in his Quid article Revolt is Dead/Long Live Thoughtful Debate. He opened with a quote, from de Toqueville, about how each new generation in a democratic nation is a new people. First, take a brief moment to savour the irony of watching someone try to argue such a point with reference to the wisdom of man who died in the nineteenth century. A "new people" or not, it seems we can agree that the current generation can still learn from generations past.

Herman criticises the monarchy on several grounds: it is old, it is "unrepresentative" and it incurs costs of "35 million" due to the upkeep of Rideau Hall and the activities of the various Lieutenants-Governor of the provinces.

The age of an institution is irrelevant. Despite the usual (and fleeting) irreverence of youth towards things that have existed longer than they have, age is generally a sign of a successful institution. The British Crown has weathered a thousand years; it has grown and evolved with the times and has nurtured institutions that we hold dear, like parliamentary democracy.

Herman suggests that he would rather students react to the monarchy by rebelling or taking to the streets than resort to analysis or polite debate. Those who lived in Europe in the 19th century (like de Toqueville) were sadly bereft of the protection and stability offered by British Crown and its constitutional monarchy. They spent the century `in the streets' at barricades, fighting authoritarian rulers and tyrants. It may sound romantic to a law student now. However, I would imagine dying slowly from a musket shot in the heat and stench of Paris in the summer is not fun.

There were no barricades in Britain precisely because the Monarchy has always (with a few exceptions hundreds of years ago) been pragmatic and flexible. Similarly, Canadians have never had to rebel or to resort to arms (the brief and poorly supported rebellions of 1837 aside) to resolve political differences. We have long enjoyed the luxury of engaging in analysis and polite debate (including attacking the Crown!). ▸

The Crown remains a symbol of the freedoms and responsibilities we hold and of the millennium-long path we have travelled to get to where we are now.

The Monarchy is "unrepresentative" is it? Some try to undermine the Crown by claiming it antagonizes Quebec nationalists because it is a symbol of their defeat in the eighteenth century. I fail to see how the Monarchy could offer any more affront than the Maple Leaf. Rather the Monarchy has played an important role in nurturing the way of life that is so eagerly adopted by new citizens who have come to Canada from all over the world.

Herman would have us drop the institution of the Crown off at Shady Acres with a quick "thanks for the democracy, but don't call us we'll call you". For my buck and a half (the amount the Monarchy costs each of us a year), I'd rather honour tradition and preserve our living history. ■

The Sunshine Article

by Alison Glaser Law II

So it's the month of November. It's not a nice month. Winter is in the air, but there is no pretty snow. Between now and the joy of Christmas there is the horror of exams. There are papers to write, and summaries to finish (or start…) and just a general feeling of uckiness. But hey, this is the sunshine article so we don't care about that stuff! The goal is to try and keep things light, to get people to take a moment to stop taking themselves so seriously, and to recommend some stress-reducing techniques. So with that in mind, I'd like to talk about Transsystemia.

As I understand it (and Dean Kasirer can let me know if I am way off base here), the transsystemic approach works as follows: we aim to look at the concepts and questions in law more in the abstract, and then use the systems as ways to illustrate different approaches to the problems. Thus, we are not starting from one viewpoint and comparing it to another, we are starting outside of any viewpoint whatsoever. So, for example, in a transsystemic way of looking at the problem of limiting extra-contractual liability, you would ask: how far would the effects of my actions lead me to be liable? At what point do I stop being liable for the consequences of what I have done? Clearly, every action can have lots of far-reaching effects, and no one thinks that one should be liable for all of the possible consequences. So now we can look at possible solutions to this problem, and we can relate some solutions to particular systems. For example, then, we could limit the effects of one's actions to only those people to whom one would owe a duty of care (common law approach) or only to the direct and immediate consequences of my actions (civil law approach). But my question is: what would happen if real life were transsystemic?

The question: how should dishes get done?
The approaches: one approach would be to do dishes right away (Ali's approach). This means that as soon as there are some dirty dishes then they should be washed. Another approach would be to let the dishes stack up and then do them all in one huge load (Ali's husband's approach). This minimizes the amount of times one has to actually stand at the sink and do some dishes.

The question: When one is going to an exam and one must take public transportation to get there, what is the best method for getting there with little stress?
The approaches: one approach would be to take a bus far in advance so that even if you miss the first bus (or second or third) you would still get to your exam with time to spare and therefore would not have to worry (this would be the Ali approach). Another approach would be to sleep in until the last possible second and then go for the last possible bus and then if one misses said last possible bus to call one's daddy and cry (this would be Ali's younger sister's approach - sigh).

The question: How does one make sure that the car door is locked?
The approaches: One could simply press the door lock button (Ali's approach) or one could press the lock button and then go around the car systematically testing every door to make really really absolutely one hundred percent sure that the doors are locked (Andrea's approach).
Of course I must confess that Andrea once found that one of her doors was unlocked and hey, my car got stolen, so really there isn't one approach that is better than others…

The question: How should you make a ▸

summary for an exam?
The approaches: One could conscientiously create a summary throughout the semester and then revise and reformulate it to make a thing of beauty (Jen's approach) or one could unconscionably steal old summaries and then add in things from one's notes in pen just before the exam (Ali's approach).

The question: How do you determine which is the best hockey team to support?
The approaches: one could support the team from the city of your origin even though they are lame and have not won anything in, oh, 100 years or so (the Leafs fan's approach) or one could support the team of the city in which one now lives, whereby one would be supporting an awesome team, who despite recent suckage, still holds the record for more Stanley Cups ever (the Habs fan's approach).

The question: How should one be informed about what Christmas gift to buy for one's significant other?
The approaches: one could leave blatant hints, such as catalogues with preferred gifts circled in red, or better yet, one could say "for Christmas, I would like to receive X" (Men's preferred approach). Or, one could believe that one's significant other should just KNOW what to get and that the gift should therefore be a surprise (Women's preferred approach).
NB: although I am clearly engaging in some blatant gender stereotyping in the above example, it is meant to be humorous. Please do not send me hate mail. Ps: if any guys do happen to read the minds of their significant others, could you please contact my husband and give him some lessons? Thank you.

The question: how should one spend a relatively free afternoon?
The approaches: one approach would be to see this as a great opportunity to do some work so that one has less to do later on in the week (everyone currently sitting in the library's approach) or one could spend the time thinking up silly transsystemic examples for an article (Ali's approach – which reminds me, I should maybe get back to doing some crim reading….). Happy transsystemitizing! ■

L'HALLUCINATION NATIONALISTE

BY LÉONID SIROTA (LAW II)

Les marchands d'opium :

La religion, aurait écrit Karl Marx, est l'opium du peuple. Quoi qu'il en soit de la véracité de cette thèse ailleurs dans le monde, elle décrit assez bien la situation des Canadiens-français pendant environ deux siècles, de la Conquête jusqu'à la révolution tranquille. La religion a servi aux élites, tant francophones qu'anglophones, à rendre la plupart des Canadiens-français insensibles au manque d'alternatives politiques à leur disposition et au manque d'opportunités pour exercer un pouvoir économique. Depuis 45, voire 50 ans, la religion s'efface de plus en plus de la vie publique au Québec. Aurait-on appris à vivre sans opium, à se poser des questions difficiles sur note présent et notre avenir?

Hélas, non. Car à mesure que la religion perdait de son importance, le Québec s'est tourné vers un autre opiacé : le nationalisme. Ayant, bon gré, mal gré, laissé tomber sa variété ethnique, c'est vers la sorte dit « civique » du nationalisme que le Québec s'est tourné. Près d'un demi-siècle après la Révolution tranquille, nous refusons toujours de faire face à nos problèmes politiques et économiques, actuels ou futurs. Nous avons, semble-t-il, mieux à faire : réclamer « l'argent d'Ottawa » qu'on va utiliser pour boucher les trous dans la toiture et les murs lentement pourrissants de notre maison et, surtout, d'autant plus que l'argent ne vient pas, exiger d'être reconnus comme « nation ».

Au Québec, l'idée ferait, nous dit-on, consensus. De Jean Charest, qui est toujours à la traîne dans les sondages malgré une opposition incompétente pour la bonne raison qu'une fois élu, il n'a jamais jugé bon d'expliquer ses politiques aux citoyens, à André Boisclair, définition vivante du mot « démagogue », en passant par Bernard Landry, incarnation même de la notion de paternalisme, nos politiciens se bousculent pour nous fournir notre dose de

narcotiques. Le reste du Canada est encore hésitant, mais Michael Ignatieff nous promet, s'il devient chef du Parti libéral du Canda puis Premier ministre, une piquerie enchâssée dans la constitution. D'allégeance politique forte différente, ces hommes ont en commun une formidable arrogance intellectuelle. Ils démontrent, chacun à sa manière, une ferme conviction de pouvoir nous prêcher la vérité politique non susceptible d'être remise en question et débattue, comme un prêtre prêche la vérité religieuse. Chacun d'eux se veut marchand d'opium.

Je ne veux pas de cette drogue, de qui qu'elle vienne. En fait, je crois que le concept même de « nation » est vide de sens, et que le nationalisme, même dans sa variante dite « civique » est une idéologie périlleuse et injustifiable.

L'hallucination :

À la base de cette idéologie est l'idée mal définie de « nation ». Une nation est supposée être une communauté définie par une combinaison de facteurs tels que l'appartenance ethnique de ses membres, la langue commune qu'ils parlent, l'histoire et le territoire qu'ils partagent, des valeurs collectives qu'ils véhiculent. Tous ces facteurs ne doivent pas nécessairement être présents, et personne ne s'aventure à dire combien, ou lesquels, sont nécessaires pour qu'une communauté mérite d'être considérée comme une nation. Ce problème de définition permet aux libérateurs autoproclamés et, plus généralement, aux politiciens de toute espèce de prétendre qu'une communauté est, ou n'est pas, une nation, en fonction de leur objectif politique. Ainsi, la Suisse serait une nation, malgré ses trois communautés linguistiques bien distinctes, mais le Canada, au dire des séparatistes québécois, n'en serait pas une à cause de la prétendue irréconciliabilté de ses deux communautés linguistiques principales. Évidemment, dans un tel contexte, les discours sont dominés par des idées reçues, impossibles à confirmer ou à infirmer.

Le « nationalisme civique », dont se réclament à présent les politiciens nationalistes de M. Ignatieff à M. Boisclair, souffre des mêmes vices de définition. Bien qu'il tente de limiter le nombre de facteurs selon lesquels ont décide ce qu'est une nation, en insistant surtout sur l'importance d'une communauté de valeurs, il n'y parvient pas vraiment. Dans les « nationalismes civiques » québécois comme canadien, le territoire commun et la nécessité de défendre son intégrité sont des traits déterminants. Pour le Québec en particulier, mais aussi pour le Canada, la (ou les) langue(s) sont essentielles à la définition de la « nation au sens civique du terme». De plus, et c'est peut-être le plus grave défaut de cette idéologie, les « valeurs communes » sur lesquelles elle s'appuie, bien qu'elles puissent en apparence faire consensus, sont en réalité comprises très différemment par les membres de la « nation ». On a beau se déclarer tous en faveur de la liberté, de la démocratie, de la justice, on n'en continue pas moins à débattre farouchement de ce que « liberté » ou « justice » veut dire. Par ailleurs, si les définitions font rarement l'objet de contentieux, les grandes idées sont partagées non seulement par la plupart sinon tous les Québécois et les Canadiens, mais aussi par une bonne partie de la population de la planète. Elles ne peuvent donc pas, me semble-t-il, servir à délimiter une « nation québécoise » ou une « nation canadienne ».

À mon humble avis, cette imprécision suffit à démontrer que l'idée de « nation » est insensée. Un concept aussi fondamental ne saurait être défini avec un manque total de rigueur, selon le seul principe « *you know it when you see it* », d'autant plus que les gens ne s'entendent pas le moins du monde sur ce qu'ils voient. Il s'agit, en tout cas, d'une base bien peu solide pour appuyer les prétentions du nationalisme.

Or, ces prétentions sont fort ambitieuses. L'idée maîtresse du nationalisme est que les pouvoirs de l'État sont dérivés de la nation qui le constitue et doivent être exercés de façon à servir les intérêts de cette nation, qui sont distincts de ceux des citoyens. En d'autres mots, la nation doit être souveraine. Je suppose que les nationalistes québécois fédéralistes ou leurs sympathisants, tel M. Ignatieff, qui se prétendent en faveur de l'unité canadienne, limitent cette idée, et se disent être en faveur d'une souveraineté limitée à certains champs de compétence, qu'il s'agisse de ceux déjà accordés aux provinces par la constitution canadienne ou non. Une telle limitation ne me semble pas être cohérente avec la pensée nationaliste, car le retrait de certains champs de compétence à la souveraineté d'une nation

qu'on considère aussi « digne » que n'importe quelle autre est tout à fait arbitraire. Cependant, cette déficience logique n'est même pas le principal défaut du raisonnement « nation – souveraineté ».

La principale difficulté de ce discours est, pour moi, d'ordre éthique. Il me semble, en effet, immoral de subordonner les droits et les intérêts d'une personne à ceux, prétendus, d'une entité, au mieux, abstraite, sinon tout simplement fictive. Or, la souveraineté de la nation implique nécessairement que les droits de la personne seront assujettis aux droits collectifs; l'intérêt individuel, à l'intérêt national. Cela me paraît, en soi, incompatible avec l'autonomie et la dignité de l'être humain. Je ne prétends pas que les droits dont un individu dispose ne doivent pas pouvoir être limités, mais ils ne devraient l'être que dans la mesure où cela est nécessaire pour assurer les droits d'autres individus puisqu'on ne peut réclamer la dignité humaine pour soi tout seul. Subordonner une personne à une abstraction me semble aberrant. Et c'est une aberration d'autant plus vicieuse que les « droits » et les « intérêts » collectifs sont nécessairement définis par des politiciens et par des prophètes auto-proclamés tels qu'un président de la Société Saint-Jean-Baptiste ou de la National Citizens Coalition. Des marchands d'opium qui décident ce que leurs clients vont voir dans leurs hallucinations.

Évidemment, ces problèmes fondamentaux n'affectent pas que le nationalisme ethnique. Puisque la « nation » civique n'est pas moins abstraite que la « nation » ethnique, subjuguer un être humain à la première est tout aussi injuste et devrait emporter les mêmes conséquences que le soumettre à la seconde. On est, tout de même, tenté de croire que les effets pratiques ne seront pas aussi dramatiques. On ne pense pas, en général, que le nationalisme civique saurait mener à des camps de concentration comme le nationalisme ethnique radical. A-t-on raison?

Les effets secondaires :

La plus remarquable démonstration des effets secondaires des hallucinations enduites par le « nationalisme civique » nous est servie à tous les jours par les États-Unis. Peut-être va-t-on rétorquer qu'il s'agit d'un cas extrême. Il est vrai que c'est un pays qui ne fait pas les choses à moitié, là comme ailleurs. Pourtant, avant de décider qu'il s'agit d'un cas anormal, à ne pas prendre en considération, il faut se rappeler que c'est le pays où le « nationalisme civique » fait partie de la culture politique depuis plus longtemps que n'importe où ailleurs, et qu'il pourrait donc s'agir d'un exemple parfait plutôt que d'un cas extrême. Et que, de toute façon, en temps de crise, les extrêmes tendent à devenir les moyens, pas seulement aux États-Unis.

Que les États-Unis sont un modèle de l'application de l'idéologie « nationaliste civique » me semble plutôt clair, et particulièrement depuis le début de la « guerre au terrorisme ». De plus en plus ouvert à son caractère multiethnique, largement tolérant au niveau religieux malgré les meilleurs efforts de certains de ses citoyens, c'est un pays qui depuis longtemps fonde sa mythologie d'abord et avant tout sur son « rêve américain » soutenu par certaines valeurs plus ou moins bien définies. Ceci lui a justement permis de devenir tolérant et ouvert à certains niveaux, mais ne l'a pas sauvegardé d'une intolérance parfois remarquable de ceux que ses élites définissaient comme « *un-American* ». Le Maccarthysme en a été un exemple bien connu.

C'est toutefois l'administration de George W. Bush, depuis le 11 septembre 2001, qui démontre peut-être le mieux jusqu'où le « nationalisme civique » peut aller. Elle a défini ce que les valeurs américaines devaient être, a rassemblé « la nation » autour de ces valeurs en profitant d'un état des esprits particulièrement susceptible, au lendemain d'une catastrophe, à l'endoctrinement, et l'a entraînée vers ses objectifs fixés longtemps à l'avance en proclamant agressivement que ceux qui n'était pas avec elle étaient contre l'Amérique. L'adhésion des Américains aux valeurs et les intérêts « nationaux » a justifié un empiètement constant sur leurs libertés individuelles, a permis de leur faire ignorer une politique budgétaire désastreuse, a rendu possible une guerre suicidaire… Elle a même fait accepter à une bonne partie d'entre eux, ainsi qu'au grand défenseur des nationalismes « civiques » canadien et québécois, professeur de droits de l'homme de son métier, M. Ignatieff, l'existence à Guantanamo de ce que m'a l'air d'un camp de concentration. En voilà pour les effets secondaires de la drogue « douce » qu'est supposé être le nationalisme « civique »,

Le remède :

En résumé, le nationalisme « civique » est tout aussi injustifié et dangereux que le nationalisme « ethnique ». Les deux, après tout, sont basés sur des idées chimériques dont leurs défenseurs peuvent se servir fort habilement pour faire avaler n'importe quel mensonge, accepter n'importe quelle folie, induire n'importe quel degré d'indifférence face aux problèmes pressants. Si la dignité humaine, la liberté personnelle, la justice sociale nous tiennent à cœur, nous n'avons, je crois, d'autre choix que de rejeter le nationalisme, sous quelle étiquette qu'on nous le présente. Selon un ami nationaliste, un tel rejet ne saurait se réaliser, au mieux, que dans un avenir un lointain. Je préfère voir, je suppose, l'humanité d'un œil un plus optimiste que lui. Quoi qu'il en soit, j'aime mieux être un homme de l'avenir que du passé. Même si nous n'embrassons pas l'avenir maintenant, il n'en arrivera pas moins – mais sous une forme possiblement désastreuse. Je me permets de conclure, comme Pierre Elliott Trudeau l'avait fait dans « La nouvelle trahison des clercs », sur une citation de Lord Acton.

"Nationality does not aim either at liberty or prosperity, both of which it sacrifices to the imperative necessity of making the nation the mould and measure of the State. Its course will be marked with material as well as moral ruin, in order that a new invention may prevail over the works of God and the interests of mankind."■

SADDAM'S SCHAUPROZESS

BY BALKEES JARRAH (LAW II)

In Public International Law we learned that following the Allied victory in World War II, there was debate about the fate of the Nazi leadership. Churchill called for the summary execution of the top echelon, arguing that any attempt at a fair trial would be a charade. Perhaps Churchill would have said the same of Saddam Hussein's trial. Sadly, he would have been right.

The Hussein trial proceedings were enough to make any law student cringe and were a smack in the face of fundamental principles of justice. Overall, the trial was neither legitimate nor credible. Its flaws were numerous, ranging from lack of proper expertise, insufficient resources and scarce or flawed international input. A review of some of the highlights of the proceedings demonstrates this spectrum of deficiencies.

First, the Iraqi High Tribunal is administered by jurists who lack the appropriate familiarity with international criminal and human rights law to try a case involving crimes against humanity. What is more, Iraqi judges and lawyers have never managed a trial as complex as Saddam Hussein's. Indeed, there are numerous questions surrounding the general competency of Iraq's current judiciary.

Second, the proceedings were plagued by a plethora of events that compromised any attempt to meet key fair trial standards, and put bluntly - bordered on the absurd. Some highlights include the assassination of defense lawyers; the abduction of court officials; the boycott of proceedings by Hussein's defense team; the imposed assignment of specific defense lawyers against Hussein's express will; the introduction of evidence not made available to the defense in advance; the ostensible fabrication of evidence; and the substitution of the Tribunal's judge over allegations of partiality. The preceding list would, of course, not be complete without incessant scenes of petulant exchanges between Hussein and the Tribunal's judges, walk-outs and aborted hunger-strikes.

Third, and perhaps most problematically, it is questionable whether the Tribunal succeeded in maintaining its independence. Most notably, one has to wonder whether a guilty judgment handed down a few days before a key American election is merely coincidence. Other examples include the denial of defence lawyers' right to meet with their clients confidentially, and the significant financial support given to the prosecution by the Americans. A range of actors, including Amnesty International and Human Rights Watch, have expressed their misgivings about the ability of the Tribunal to meet international standards in this respect. UN Secretary-General Kofi Annan has also voiced his concerns about the fairness of the proceedings.

No doubt, the trial could have been saved had ▸

room been made for external expert assistance. Namely, the tribunal lacked the robust international participation that other international criminal proceedings have enjoyed. The international character of the tribunals for the Former Yugoslavia and Rwanda are persuasive examples of the value of such assistance. Unfortunately, it was unlikely the Security Council, having not sanctioned the military intervention in Iraq in the first place, would have authorized the creation of a similar international tribunal for Iraq. Utilizing the nascent International Criminal Court as an alternative was also impossible because the ICC cannot prosecute crimes committed before July 1, 2002.

Despite these obstacles, however, two viable options did exist. First the establishment of a mixed international-domestic tribunal (as is the case in Sierra Leone) would have secured Iraqi participation while also embracing international expertise. Second, Hussein's trial could have been delayed and held in an Iraq that enjoyed greater security. Only in a stable environment could the trial have been fair and effective. Either of these options would have ensured that the Tribunal's proceedings enjoyed greater legitimacy. Regrettably, neither road was pursued and this imprudence does not come without its consequences.

Recent rallies in Iraq forecast the reinforcement of sectarian divisions and public opinion polls in the rest of the Middle East show an increased resentment of American foreign policy in Iraq. It is reported that Iraqi Prime Minister Nouri Maliki plans to execute Saddam Hussein by the end of 2006. Besides the morally objectionable nature of the sentence, the swift execution also risks making Hussein a martyr. It is indisputable that Hussein committed unspeakable atrocities and should be held accountable for his crimes. In the words of one McGill law professor, he is a "bad man". I would go further and say that he is the worst kind of man. However, his flawed trial risks undermining any hope for an independent, reliable judicial process in a new Iraq.

History Repeats Itself – Broker Bailouts and Income Trusts

By Professor William Tetley

In 1965 when practicing law in what is then Martineau Walker, now Fasken Martineau. I heard rumours of the "broker bailout" loophole first discovered by H. Heward Stikeman Q.C. and R. Fraser Elliott Q.C. of Stikeman Elliott, whereby closely held family companies could avoid taxation on undistributed income by the sale of the company assets to a new corporation.

I figured out how it worked and took Fraser to lunch, where he generously confirmed that I understood the process correctly. Peter MacKell (another lawyer at Martineau Walker) and I then successfully did two bailouts for clients.

In1970, I became Minister of Revenue in Quebec and the Deputy Minister immediately advised me that the five-year delay for taxing distributions arising from bailouts would expire shortly and that Quebec had to decide whether or not to act. The Deputy Minister further advised that in Quebec alone, 300 families had benefited from the bailouts and I told him to impose the tax.

There was an uproar, especially because Walter Gordon, the Federal Finance Minister, had made a deal in respect of federal taxes to tax only 50% of the profits distributed. Later I met Heward Stikeman who said "Congratulations, you stonewalled us."

I expect that it will be shown that the closing of the loophole, whereby income trusts avoided taxation as announced by the Harper government on October 31, 2006 was the proper course. The Harper government should now change course on almost all its other legislation including the Kyoto protocol, the Clean Air Bill, gun control and Afghanistan.■

Professor McGill Law Faculty of Law Professor Tetley was a Minister in Bourassa's first Cabinet from 1970 - 1976

Will History Repeat Itself ? Trudeau – Dion?

by Professor William Tetley

Michael Ignatieff is presumably ahead in the race for leader of the Federal Liberal Party, but may be overtaken in the final count, perhaps by Stéphane Dion. The experience when Trudeau came from far behind in 1968 may be instructive.

At that time, there were a number of cabinet ministers with justified high hopes, including Paul Martin Sr., Paul Hellyer, Robert Winters, Mitchell Sharpe, and Maurice Sauvé as well as Eric Kierans of the Quebec Legislative Assembly. The Quebec triumvirate of Jean Marchand, Gérard Pelletier and Pierre Elliott Trudeau were also considered but even Marchand the leader and best known of the three was way down the list. Eventually Trudeau was chosen to run by a committee in Ottawa headed by Marc Lalonde, who was Pearson's chef du cabinet. Pearson was officially and in fact neutral.

A committee was formed in Quebec of Marchand, Bob Giguère, who became a Senator, Michel Robert, who became Chief Justice of Quebec, Jean Prieur (who became Robert Bourassa's senior adviser) and myself.

When Trudeau's candidacy was announced, Claude Ryan, Editor and Director of *Le Devoir* who had a long-time antipathy for Trudeau, wrote an editorial to the effect that Trudeau was unknown in the rest of Canada. Lalonde telephoned me and the others to get names of persons in the other provinces, who would support Trudeau. At the time I was a city councillor in Town of Mount Royal and for four years had attended annual conferences of the Canadian Association of Mayor's and Municipalities. I took the Association telephone list and spent the day phoning across Canada and almost everyone gave his support for Trudeau including many who went on to be candidates, judges, senators and long-time supporters. I also telephoned lawyers and friends over the years including Izzie Asper of Winnipeg

By nightfall, I had over fifty names and so did each of the committee members. The names were sent to *Le Devoir* and dutifully published, the next day, but Ryan wrote that Trudeau was not really appreciated in Quebec. Lalonde immediately telephoned the committee to get names of supporters in Quebec. I was one of 21 Regional Vice-Presidents of the Quebec Liberal Party and telephoned everyone on the list, all of whom were delighted to lend their names. I could not contact one of the Vice-presidents and his name was erroneously published next day in *Le Devoir*. Unfortunately the V-P was supporting Kierans and I got into considerable hot water. Later on when Trudeau won the V-P phoned to say "Bill, I can't tell you how much I want to thank you for putting me on the list."■

William Tetley, C.M., Q.C., was a Liberal Member of the Quebec National Assembly (1968-1976) and Minister in the first Bourassa government from 1970 - 1976. He is presently a professor at the McGill Law Faculty.

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Confronting my Other: The (American) National Lawyer's Guild Convention and Austin, Texas

By Lindsay Tina Cheong (Law II)

In October, a friend of mine here at the law school approached me with an idea: how about going down to Austin, Texas for the National Lawyer's Guild Convention? Instinctively, I felt a huge "yes" swell in my chest since I am the kind of gal that loves an adventure into the unknown. Plus, this trip would give me the chance to not only be surrounded by lawyers working in fields of law other than corporate law, it would also force me to confront my own stereotypes about Americans and well…. Texas.

The trip sparked many conversations between my law friend (who, among other things, is American) and I about my alarming comfort level with stereotyping Americans, cowboys and well… Texas. I told her that my relationship with the United ▸

States was built on 3 things: consumerism, my studies and complicity in international relations and mostly unpleasant encounters with Americans in school. Oh, and there was "Walker, Texas Ranger." I realised it was high time for me to find out more about my "elusive southern neighbour".

The world I found myself in was a world that I had never experienced before. Yes, I met the stereotypical "cowboy" who tried to pick me up on the plane by appealing to my "Asian beauty" with smooth southern hospitality. Yes, I saw de facto racial segregation. Yes I saw moments of aggression and emotional violence. Yes, I even saw policemen sanitizing their hands after encountering a black women at the bus stop. It was all so overwhelming. That, and the fact that Houston and to a certain extent Austin were not built for humans, but for machines. Distances, sprawling highways and the lack of sidewalks were an everyday reality. Kindness, as I also found out from encounters with salespeople and waiters/waitresses, was not an expectation for them, but a luxury. (How) Does law maintain these social relations and this way of living?

The conference was equally intense because it also forced me to confront the realities of our society and the role law plays in maintaining these realities. But it was also empowering. I was consumed with Deborah Small, a female African-American, who spoke with much strength about her work in the Penal System (read: Criminal Justice System) through an organization called "Break the Chains". She spoke of the grave injustices suffered by Black and Hispanic communities across the country through the over-policing and over-incarceration of their youth, the disproportionality in their sentencing and the kinds of "crimes" they were being locked up for. She also made clear that the penal system was being used as an instrument of oppression since all of the impediments it posed to these particular racial communities constrained their members from making a living. It was in effect, taking their lives away from them in a systemic way. What about the Criminal Justice System in Canada?

I also reveled in the amount of exchange that occurred between lawyers as to the best strategies to argue a case, as well as the kind of strategy exchange that ensued between legal workers who struggled with over-policed immigrant communities. There was a sense of community amongst these people that I felt was not based on any ritualized behaviour that involved large amounts of funding. I had never seen that before in my experience as a law student, but there it was (all the way) in Austin, Texas. ■

For more on the National Lawyer's Guild, check www.nlg.org

The Square

By Nicholas Dodd (LAW II)

Rock'n'roll and my personal soap opera

With exams on the way, deadlines looming on the horizon, and the snow about to fly, I think you will agree that we could all use a bit of good news in our lives. Well, as luck would have it, I have recently been privy to a piece of information that is sure to brighten your day and bring a smile to your face. That's right folks: Guns'N'Roses are back! Break out your white leather, ripped jeans, bandanas and aviators baby, because the G'N'R machine is rolling into a town near you!

Who can forget those heady days in the late `80s and early `90s, when one band stood out from the rest? G'N'R emerged at a time when glitter and hair band hard-living-rock-n-roll pretty boys were giving way to the plaid and shagginess of the grunge and alternative rock movements. They were arguably the best of the best, the hardest living of the hard living (save, perhaps, Motley Crue, but that's a debate for another bottle of whiskey), and the most musically talented of the arena-band lot. Can anyone really say they didn't crank that volume dial whenever *Welcome to the Jungle* issued from their radio? Which of us did pump our fists in the air during the opening bars of *Paradise City*? And, ▸

honestly now, whom here did not quiver with anticipation at the prospect of dancing with that special someone for the nine-plus minutes of *November Rain*? I have only contempt for those who hold up Bon Jovi as the greatest rock band of that time. Bah-humbug to AC/DC, Whitesnake or Poison. Don't waste my time with suggestions that U2 was doing something better. G'N'R were the kings.

Time, however - as with all things - has taken its toll on my enthusiasm for their music. Of course there was the ugly breakup, where a lot of hurtful things were said, and then the constant promises of re-forming or new music. I was forced to see them with other people, doing other things, and looking happy. It was hard. Moreover, in their absence, I changed. I took a good hard look at some of the messages contained in their lyrics and in their behaviour and decided that they (the messages and the band) weren't for me. Now they've come back only to find that I long ago locked the door and threw away the key.

Am I sad? Not really, I think things are better this way. Wistful? Perhaps a little. In the end, I think things worked out for the best. However, I am left with one burning question, namely: were Guns'N'Roses really any good??

The thing is, I can't tell anymore. My feelings and opinions are so tangled up in the love once had and now gone forever that I can't approach this with any type of distance. Is Axl's voice merely another example of how all great rock'n'rollers must have a unique warble i.e. Robert Plant? Or is more akin to the sound a stray cat makes when you try to forcibly eject it from your apartment? Is their version of *Knockin' On Heaven's Door* a shining of example of how to translate a folk tune into a power-rock classic? Or is it the inhumane butchering of the work of one of our great poets? Important questions clearly, and the thing is, I just don't know the answers!

I invite you to help me wade through the complicated musical issues posed by the return of Axl and his new friends. Feel free to approach me in the hallway and give me your two cents. Or even four if you have it. Please help me figure out if *Use Your Illusion I* is better than *Use Your Illusion III*, or if, on the other hand, they both belong in the bargain bin at the local thrift store.

I apologize for involving you in my sorry plight, but I hope to get some answers from this experiment. If this does not interest you, however, I alternatively propose a fun game you can play with your classmates when the internet isn't working. I challenge you to relate a member of the Faculty to every member of G'N'R. A drink goes to the person who approaches me with the best response. Two drinks to anyone who can get a professor to admit: "I guess, now that you mention it, that there is a bit of Axl Rose in me." Let the games begin … ■

We need your help to fill these pages! Don't be shy, send us your art, poetry, raves and rants, events, games summaries, thoughts and anything else....

Next Quid hits the stands November 21st, 2006.

So, write for the Quid, cause you know you want to!!!

Rectifying Misconceptions: A Response to Kyle Gervais' Article

Myriam Couillard-Castonguay (LAW II)
VP-Administration

I would like to thank Kyle Gervais for writing his creative piece which appeared in last week's Quid. As a member of the LSA executive, I welcome suggestions, comments or criticism (preferably constructive) regarding the LSA's initiatives. However, I was disappointed that Kyle did not approach members of the LSA to discuss the issues that were so close to his heart. Because these criticisms were made publicly, I will respond publicly to rectify any misconceptions.

Blaming delays in the lounge renovations on the LSA president is gratuitous; although the LSA oversaw the lounge project, it is currently directed by Matt Bilmes. The delays are in fact attributable to the complexity of construction administration at McGill and to the work of sub-contractors who do not report to the LSA.

Kyle's comments on the new LSA website are equally unfounded. I would first like to remind students that contrary to popular belief, pubdocs is not run by the LSA (however, its link is available on the website!). Although the old website was functional, it was not useful. The current website is not yet fully functional, but it will be more useful before the end of this semester and will indeed be revamped; the LSA will be able to modify anything and everything on the website without help from the webmaster. This means that next year's LSA will save money on hiring a webmaster. Clubs will also be able to edit information on their group, add links, information, etc. Moreover, there is now a complete photo gallery on the website, and a forum section should be available shortly.

Although I agree that it is unfortunate that the Bogenda only be released by mid-October, it must be said that this year's Bogenda is much more practical and includes pictures for students of all years. These improvements added innumerable hours of work to the VP-Clubs' task. In addition, the LSA's computer system crashed last May, so the template and information from last year's Bogenda was not available to work from.

Lastly, Kyle's assertion that there were no grab bags at Orientation is false.

I hope this has shed light on issues that have rightfully been concerning students since September. It is a shame that our effort to communicate our initiatives to students of the faculty was humorous to some. Please remember that the members of the LSA executive work a great deal to ameliorate life at the faculty. If one truly wants the LSA to take their criticisms seriously, it is far more effective for students to communicate concerns with the LSA executive directly, rather than sensationalizing them via a student newspaper. ■

Musique saisonnière pour votre iPod

Guns n' Roses - November Rain
Astor Piazzolla - Rain over Santiago
Paul McCartney - Driving Rain
Bob Dylan - Inside the Rain
Jean-Jacques Goldman - La pluie
David Hallyday - Sous la pluie de novembre